
Judiciary Committee

HB 1183

Title: An act relating to legal representation of children in dependency proceedings.

Brief Description: Concerning legal representation of children in dependency proceedings.

Sponsors: Representatives Goodman, Rodne, Pettigrew, Roberts, Williams, Appleton and Wood.

Brief Summary of Bill

- Requires the court, in dependency proceedings, to: (1) consider appointing an attorney for a child age 12 or older; (2) state on the record its reasons for appointing or not appointing an attorney; and (3) if an attorney is not appointed, consider whether to appoint an attorney at all subsequent hearings.

Hearing Date: 1/19/09

Staff: Trudes Tango (786-7384)

Background:

Any person or the Division of Social and Health Services may file a petition in court to determine if a child should be a dependent of the state due to abuse, neglect, abandonment, or because there is no parent, guardian, or custodial capable of caring for the child. Once a child is found dependent, the court conducts periodic reviews and makes determinations about the child's placement and the parent's progress in correcting parental deficiencies. After a period of time, if the parent fails to take corrective measures needed to allow the child to return home safely, the court can eventually terminate the parent's parental rights.

The court must appoint a Guardian ad Litem (GAL) for a child subject to dependency proceedings, unless the court finds the appointment unnecessary. The GAL must investigate the child's situation, collect relevant information, and report to the court regarding the child's best interests. The GAL also must meet with, interview, or observe the child, depending on the

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child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court.

State law does not require the appointment of attorneys for children in dependencies. If the child is age 12 or older and requests an attorney, or if the GAL or the court determines that the child needs one, the court may appoint an attorney to represent the child.

Based on an online survey done by the Office of Civil Legal Aid, the majority of counties do not appoint attorneys for children. In the Benton-Franklin County judicial district, attorneys are appointed automatically for children age 8 and older, and in King County, attorneys are automatically appointed for children age 12 and older. To the extent counties do appoint attorneys, the cost is paid for by the county.

Summary of Bill:

The Legislature recognizes that few children in the state are given attorneys during dependency proceedings and their health, safety, and welfare are put at risk. The Legislature finds that it is in the best interest of a child age 12 or older for the court to consider whether an attorney should be appointed.

Whether or not the child requests an attorney, the court must consider appointing an attorney at the first regularly scheduled hearing after: (1) the child's 12th birthday; (2) the date the dependency petition is filed for a child age 12 or older; or (3) the date the bill takes effect, for unrepresented children who are already age 12 or older.

If the court does not appoint an attorney, the court must state its reasons on the record, tell the parties and the child, if present, of their right to request an attorney for the child in the future, and direct the caseworker or a party to notify any absent party of that right. In addition, the court must consider whether to appoint an attorney for the child at all subsequent hearings until an attorney is appointed or until the dependency is dismissed. If the court appoints an attorney, the court must state its reasons on the record.

Appropriation: None.

Fiscal Note: Requested on January 14, 2009.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.